

D.T.E. 00-105 April 26, 2001

Investigation by the Department of Telecommunications and Energy on its own motion as to the propriety of a proposed increase in the rates and charges set forth in the following tariff: M.D.P.U. No. 1, Revised Pages, filed by Massachusetts-American Water Company.

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I. INTRODUCTION

On November 16, 2000, Massachusetts-American Water Company ("Mass-Am" or "Company"), pursuant to G.L. c. 164, § 94 and G.L. c. 165, § 2, filed with the Department of Telecommunications and Energy ("Department") a petition to increase its rates by \$1,787,605, to become effective December 1, 2000. The requested rate increase represents an overall rate increase of 16.00 percent. The petition was docketed as D.T.E. 00-105, and by Department Orders dated November 20, 2000 and February 16, 2001, the proposed rates were suspended until August 1, 2001.

Mass-Am is a retail water utility and a wholly-owned subsidiary of Greenwich Water Systems, which in turn is a wholly-owned subsidiary of American Water Works Company. The Company serves approximately 17,400 customers in the Towns of Hingham, Hull, Millbury, Oxford, northern Cohasset, and a portion of Norwell. The Company last received a rate increase by Order dated May 31, 1996. Massachusetts-American Water Company, D.P.U. 95-118 (1996); Town of Hingham, et al. v. Department of Telecommunications and Energy, et al., 433 Mass. 198 (2001).

On January 18, 2001, the Department appointed Settlement Intervention Staff ("SIS") to act as a full intervenor in the proceeding in order to promote negotiations and effect a settlement if feasible.⁽¹⁾ The Department conducted three public hearings in Hingham, Millbury and Hull on January 16, 17, and 29, 2001, respectively, to afford interested persons an opportunity to be heard.⁽²⁾ The Department granted the Towns of Cohasset, Hingham, Hull, and Oxford (collectively, "Towns") full intervenor status. The Department granted the petitions of Senator Robert L. Hedlund and Representative Garrett J. Bradley to be limited participants. On January 29, 2001, representatives of the

Department, Company, and SIS conducted a site visit of the Company's facilities in Hingham, Hull and Norwell. On

March 23, 2001, representatives of the Department, Company, SIS, and Oxford conducted a site visit of the Company's facilities in Millbury and Oxford. In addition, the Department established a procedural schedule⁽³⁾ and rounds of discovery were issued by the Department, SIS and Oxford.

On April 12, 2001, Mass-Am, SIS, Hingham, Hull, Oxford, and Cohasset (collectively, "Parties") filed a Joint Motion for Approval of Offer of Settlement ("Motion") and an Offer of Settlement ("Settlement"). The Motion requests that the Department approve the Settlement on or before May 1, 2001 (Motion at 1). The Settlement is offered with the intent of resolving all issues in D.T.E. 00-105 (Settlement at 1). The Parties request that the Department take administrative notice of the Company's 1999 Annual Return and that the Department move into the record the Company's initial filing, the Towns' pre-filed testimony, and responses to all information requests provided during this proceeding (Motion at 1).

II. PROPOSED SETTLEMENT

By its terms, the Settlement filed by the Parties on April 12, 2001, with the Department is expressly conditioned upon the Department's acceptance without change or condition by May 1, 2001, of all of the provisions therein (Settlement at 1). The key provisions of the proposed Settlement are as follows:

First, the Settlement specifies that the Company's additional annual revenues shall be \$1,173,115.70, representing an increase of 10.5 percent over rates in effect since June 1, 1996 (id. at 2). Additionally, the Settlement contains schedules that represent the substance of the Parties' agreement on rate and service issues in D.T.E. 00-105; that is, the Settlement includes the proposed tariff, bill impacts of the proposed rates, and a statement of issues outlining the elements of the Settlement (id.). Second, the Settlement provides for an overall rate of return on rate base of 9.53 percent, based on a return on common equity ("ROE") of 11.5 percent; a capital structure of 57.6 percent long-term debt and 42.4 percent common equity (id.). Third, the Parties agree to increase the current composite depreciation accrual rate of 1.5 percent to 2.06 percent, with an additional increase of 0.55 percent to be proposed as part of the Company's next base rate proceeding (id. at 3, Sch. 3).⁽⁴⁾ The Settlement also provides for the redesign of the Company's present metered rate structure from a declining block rate applicable to all metered customers to three customer class-specific rates consisting of a customer charge and a single volumetric rate (id., Sch. 11).

III. STANDARD OF REVIEW

The Department instituted the settlement intervention process to reduce administrative costs incurred by water companies and their ratepayers in adjudicating rate cases. In assessing the reasonableness of the settlement, the Department must review the entire record presented in the Company's filing and other record evidence to ensure that the settlement is consistent with Department precedent and the public interest. See Western Massachusetts Electric Company, D.P.U. 92-13, at 7 (1992); Barnstable Water Company, D.P.U. 91-189, at 4 (1992); Cambridge Electric Light Company, D.P.U. 89-109, at 5 (1989); Southbridge Water Supply Company, D.P.U. 89-25 (1989); Eastern Edison Company, D.P.U. 88-100, at 9 (1989).

IV. ANALYSIS AND FINDINGS

The Department has evaluated the provisions of the Settlement and the proposed revenue increase in light of the information developed by the parties and the Department on the Company's test year revenues and expenses, proposed adjustments, and a reasonable cost of capital.⁽⁵⁾ In addition, the Department has carefully reviewed the written comments received from interested persons and the oral comments presented at the public hearings. The Department notes that the Settlement includes cost allocation issues and a rate structure that balances the competing goals of allocating costs among all rate classes while maintaining rate continuity. See Milford Water Company, D.T.E. 98-112, at 4 (1999); Boston Gas Company, D.P.U. 96-50-A at 4 (1996); High Wood Water Company, D.P.U. 90-57/89-83/88-180, at 3-4 (1990). Based on the Department's review of the record in this proceeding, we find that the Settlement produces a fair result and is compatible with Department policy and precedent. Accordingly, because the Department finds that the Settlement is in the public interest, the Joint Motion for Approval of an Offer of Settlement and the Offer of Settlement are approved.

Finally, the Department has entered into a memorandum of understanding ("MOU") with the Massachusetts Department of Environmental Protection ("DEP"). Memorandum of Agreement Between the Department of Telecommunications and Energy and the Department of Environmental Protection Regarding the Setting of Water Rates for Private Water Companies (December 24, 1998). The purpose of the MOU is to implement the provisions of G.L. c. 164, § 94, c. 165, § 2, and c. 21G in a harmonious manner, insofar as they may pertain to water rate design (*id.* at 1). In accordance with Section 9 of the MOU, the Department considers this Order to constitute a final determination on Mass-Am's rate design for purposes of G.L. c. 21G, § 19.

The Department's acceptance of the Settlement does not constitute a determination as to the merits of any allegations, contentions, or arguments made in this proceeding. Moreover, the Department's acceptance of the Settlement does not set a precedent for future filings whether ultimately settled or adjudicated.

V. ORDER

After due notice, hearing and consideration, it is

ORDERED: That the Joint Motion for Approval of Offer of Settlement, as filed by Massachusetts-American Water Company, the Settlement Intervention Staff, and the Towns of Hingham, Hull, Oxford, and Cohasset, is hereby GRANTED; and it is

FURTHER ORDERED: That the proposed rates set forth in M.D.P.U. No. 1, Revised Pages filed on April 12, 2001, shall become effective on May 1, 2001.

By Order of the Department,

James Connelly, Chairman

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner

Eugene J. Sullivan, Jr. Commissioner

Deirdre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).

1. The Department established the SIS process by memorandum dated June 4, 1990, in order to promote negotiated settlements and to formalize institutional representation of rate payers in water company proceedings.

2. Approximately 170 customers appeared at the public hearings. A total of 46 individuals, including state representatives and town elected officials, provided either sworn or unsworn testimony on the proposed rate increase.
3. The procedural schedule was suspended pending our review of the Offer of Settlement.
4. The Towns reserve the right to challenge the remainder of the proposed increase that the Company would seek to include in its next base rate proceeding (id. at 3)
5. The Department grants the Parties' request to move into the record the Company's initial filing, the Towns' pre-filed testimony, and responses to all information requests provided during this proceeding is granted. Additionally, the Department has taken administrative notice of the Company's 1999 Annual Return as requested by the Parties. 220 C.M.R. § 1.10(3).